THE HONOURABLE SRI JUSTICE GODA RAGHURAM

AND

THE HONOURABLE SRI JUSTICE S. ANANDA REDDY

WRIT PETITION NOS.19470 to 19475, 19496 and 19497 of 2007

DATED.03-10-2007

BETWEEN:

A.N.Hussain son of A.H.Rahman and others

…PETTIONERS

VS.

Smt.Lakshmi Narain Bhavanani wife of Narain Bhavanani and others

..RESPONDENTS

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AND

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ORAL COMMON ORDER(Per GR,J)

Common issues fall for consideration in these writ petitions and accordingly they are heard together and disposed of at the stage of admission and with the consent of the counsel for respective parties.

Heard Sri Vilas Afzul Purkar for the petitioners and Sri K.Rama Krishna Reddy, learned Senior Counsel for the respective parties.

The writ petitioners are applicants in LGC Nos.39 to 46 of 2005. These applications were filed alleging that Plot No.7 Admeasuring Acs.3.15 guntas of the erstwhile Jubilee Hills Municipality was allotted to one N.Bhavani from whom the writ petitioners/applicants had purchased individual extents through agreements of sale and that the respondents had illegally disposed of the respective claimants from the property and have thus committed act of land grabbing. In the Land Grabbing Cases the party-respondents herein filed interlocutory applications, being I.A.Nos.1339 of 2006 to 1346 of 2006 invoking the exercise of power, authority and jurisdiction by the Special Court under Section. 8(2-A) of Andhra Pradesh Land Grabbing (Prohibition) Act,1982 [for short “the Act”), seeking rejection of the LGCs on the ground that they are not maintainable.

By the common order dated.20-08-2007 the Special Court under the Act allowed the interlocutory applications preferred by the party respondents and dismissed LGC Nos.39 to 46 of 2005.

The substantive issue falling for determination in the LGCs is as to which of the competing parties have title derived from the allottee of Plot No.7

comprising Ac.3.15 guntas in T.S.No.12/3, correlated to Sy.No.129, Ward No.10, Road No.2, Banjara Hills, Shaikpet.

The party respondents, in the interlocutory applications filed by them (seeking rejection of LGCS) produced, pursuant to I.A.No.1338 of 2006 in LGC No.39 of 2005 a memo dated.06-12-1967 along with the names of allottees of recognized plots from the Collectorate, Hyderabad. That document purportedly attested the name of one Mr.Bhavanani as the allottee of Plot No.7 and not Bhavani. On the basis of the document procured from the Collectorate, summoned at the instance of the respondents, the Special Court under the Act concluded that the original allottee of Plot No.7 is N.Bhavanani and not Bhavani (as claimed by the petitioners) and consequently that the claim of the writ petitioners asserting title through N.Bhavani had no basis warranting further adjudication. The Special Court accordingly rejected the LGCs even without a trial and consideration and analysis of the merits of the competing claims and the evidence to be adduced in support of the adversarial positions.

Section.8(2)(A) of the Act reads as under::-

> "*If the Special Court is of the opinion that any case brought before it, is not a fit case to be taken cognizance of, it may return the same for presentation before the Special Tribunal:*
>
> *Provided that if, in the opinion of the Special Court, any application filed before it is prima facie frivolous or vexatious, it shall reject the same without any further enquiry;*
>
> *Provided further that if on an application from an interested person to withdraw and try a case pending before any Special Tribunal the Special Court is of the opinion that it is a fit case to be withdrawn and tried by it, it may for reasons to be recorded in writing withdraw any such case from such Special Tribunal and shall deal with it as if the case was originally instituted before the Special Court."*

As is apparent from the order impugned, the Special Court did not record the opinion that the application filed by the writ petitioners before it is *prima facie* frivolous or vexatious nor is the order impugned an exercise referable to the jurisdiction of the Special Court under the proviso to Sec.8 (2-A). The only relevant provision therefore is whether the Special Court could have been rationally of the opinion that the case brought before it by the petitioners is not a fit case to be taken cognizance of. It is not also the position from the order impugned that the applications preferred by the petitioners do not

facially set out a case warranting cognizance of and proceeding to adjudicate the claims.

The several claim petitions preferred by the petitioners were found to be misconceived on the basis of a document produced from the Collectorate at the behest of the respondents. The learned counsel for the petitioners would vehemently contend that the veracity of the document is at issue and that aspects requires to be considered by the Special Court in the fullness of time and at the trial of the Land Grabbing Cases. The petitioners further contend it was premature for the Special Court to have predicated an opinion at this stage and under the rubric of Sec.8 (2-A) of the Act.

This court is of the considered view that the determination of the issue substantially and at the stage of Sec. 8(2-A) of the Act and merely on the basis of the documents summoned from the Collectorate at the instance of the respondents, constitutes an error in the exercise of jurisdiction under Sec.8 (2-A). No case is made out for declining cognizance of the complaint when it is not the conclusion of the Special Court that the claim petitions filed by the petitioners or the documents annexed to the claim petitions *per se* disentitle the adjudication of the claim petitions under the provisions of the Act. In fact cognizance was already taken of the LGC Nos.39 to 46 of 2005.

It was therefore not permissible for the Special Court to have exercised jurisdiction under Section.8 (2-A). The pronouncement on the merits of the Land Grabbing Cases must await the adjudication after trial.

On the aforesaid analysis the order dated.20-08-2007 in I.A.Nos.1339 of 2006 to 1346 of 2006 in L.G.C.Nos.39 to 47 of 2005 is set aside. The Learned Special Court shall now proceed to adjudicate upon the LGCs on merits and in accordance with law.

Accordingly these writ petitions are disposed of. There shall be order as to costs.

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GODA RAGHURAM,J

3RD OCTOBER,2007
PVSN/TSNR

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S.ANANDA REDDY,J